

2000.615 USD2

Patent
THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:
Min WAN et al.

Docket: 2000.615 USD2

Application No.: 10/698,230

Examiner: David Lukton

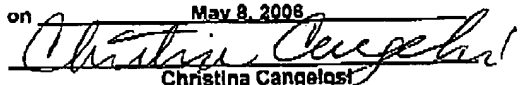
Filing Date: October 31, 2003

Group Art Unit: 1654

For: METHODS FOR REMOVING SUSPENDED
PARTICLES FROM SOLUBLE PROTEIN
SOLUTIONS

CERTIFICATE OF FACSIMILE TRANSMISSION
I hereby certify that the attached correspondence
(12 sheets) is being faxed to 571-273-8300 to the
Commissioner for Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on May 8, 2006

Christina Cangelosi

REPLY TO RESTRICTION REQUIREMENT AND PROVISIONAL ELECTION

Dear Sir:

Applicants respectfully traverse the Restriction Requirement issued March 7, 2006, for the above-identified application. A proper request and the fee for a one-month extension of time, allowing response up to and including May 8, 2006, accompanies this response.

In that Restriction Requirement, it was alleged that pending claims 24-43 require restriction for being directed to two unrelated inventions under 35 U.S.C. 121. The claims were divided into Groups I and II, as follows:

Group I: "Claims 24-32, 42-43, drawn to a method for removing suspended particles from a protein solution, and wherein there is no requirement or suggestion that a cysteine thiol group be blocked."
Group II: "Claims 33-41, drawn to a method of blocking a cysteine thiol group."

The inventions are alleged to be distinct, but the Restriction Requirement provides no rationale for why these groups are distinct. In the absence of any rationale for the restriction, the Restriction Requirement has failed to provide a

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prima facie case for restriction, and as such, is improper and requires no rebuttal from Applicants.

If, and only if, the above traverse is fully considered and deemed not-persuasive, Applicants provisionally elect Group II, directed to claims 33-41. Applicants respectfully note that claims 24-32 and 42-43 are generic to both Group I and II as they are defined in the Restriction Requirement. Should the restriction to Group II be maintained, applicants explicitly preserve their right to maintain claims generic to more than one group, and, upon allowance of a generic claim, request prosecution of those additional groups.

The Restriction Requirement further includes a species election requirement. Applicants respectfully traverse this species election requirement. Particularly, Applicants traverse this election requirement because **there is no stated reason for the species election**. This species election appears to be entirely at the whim of the Examiner and without any cause in US law or US Patent and Trademark Office procedure. Accordingly, this species requirement is improper and should be withdrawn.

The undersigned attorney does not entirely understand the form of this species election requirement, because its form is that of a decision tree, requiring the election of particular limitations among various dependent claims, and not the election of a particular species. Rather than try and follow the branching decision tree, should the above traverse be fully considered and deemed not-persuasive, Applicants provisionally elect the species of Example 1, as given on pages 10-13 of the specification.

Respectfully submitted,


F. Aaron Dubberley
Attorney for Applicant(s)
Reg. No. 41,001

Akzo Nobel Inc.
Intellectual Property Department
7 Livingstone Avenue
Dobbs Ferry, NY 10522-3408
Tel No.: (973) 325-4542